

## **REMARKS**

In response to the above-identified Office Action (“Action”), Applicants traverse Examiner’s rejection to the claims and seeks reconsideration thereof. In the instant response, claims 8 and 10-13 are cancelled and claims 22 and 23 are added. Thus, claims 1-7, 9 and 14-23 are now pending in the present application.

The instant application is directed to a suspension device for an electric pump of an assembly for drawing fuel in a motor vehicle.

### **I. Claim Amendments**

Applicants respectfully submit herewith the attached new claims 22 and 23.

Claim 22 is added as a claim dependent upon claim 1, “wherein said resilient arm is in the form of a circular wall (see, e.g., page 4, lines 10-11) which extends between a first end linked by molding to the inside periphery of said outer support (see, e.g., page 3, lines 11-13) and a second free end which can be deformed and which rests on the outside periphery of said electric pump (see, e.g., page 4, lines 14-15).”

Claim 23 is added as an independent claim that includes the elements of claims 1, 7, and 8. As suggested by Examiner in the Action, claim 23 as written constitutes an allowable claim.

The amendments to the claims are therefore supported by the specification and do not add new matter. For at least the foregoing reasons, Applicants respectfully request consideration and entry of the attached amendments to the claims.

### **II. Claim Rejections – 35 U.S.C. §102**

In the outstanding Action, claims 1, 2, 4, 6, 7, 14, 15, 17-21 stand rejected under 35 U.S.C. 102 as allegedly being anticipated by U.S. Patent No. 6,126,130 issued to Plank

(hereinafter “Plank”). Applicants respectfully traverse the rejections for at least the following reasons.

To establish anticipation, Examiner must show that the cited references teach or suggest each of the elements of a claim. Claim 1 recites that the “resilient arm extends essentially in a plane that is transverse to the axis of the outer support.” Contrary to what Examiner has indicated, Plank does not teach such a resilient arm “extending essentially in a plane.” Instead, Plank teaches a spring ring 10 which is corrugated in the axial direction (see col. 3, lines 30-34).

Further, Claim 1 recites that the arm “rests” against the body of the electric pump. Plank instead discloses a spring ring 10 which possesses elevations 15, 16 penetrating into recesses 17, 18 of the fuel pump (see col. 3, lines 46-50). Using a suspension device comprising resilient arms which rest against the body of the electric pump in accordance with the present invention, without elevations penetrating into the body of the pump as is the case according to Plank, allows both 1) simplification of the assembly steps and 2) accommodation of a greater range of diameters for the fuel pump, as shown in Exhibit A submitted herewith.

Thus, claim 1 is not anticipated by the cited reference. Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim are requested.

In regard to claims 2, 4, 6, 7, 14, 15, 17-21, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to the independent claim, these claims are not anticipated by the cited reference. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

### **III. Claim Rejections – 35 U.S.C. §103**

Claims 3, 5, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Plank in view of U.S. Patent No. 4,362,476 issued to Kemmner et al. (hereinafter “Kemmner”). Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Plank in view of

Gunther (DE 4,336,574) (hereinafter "Gunther"). Applicants respectfully disagree for the following reasons.

To establish a *prima facie* case of obviousness, Examiner must show that the cited reference teaches or suggest the elements of the claim. Claims 3 and 5 depend from independent claim 1 and therefore incorporate each of the limitations of that independent claim. Thus, for at least the reasons mentioned above in regard to the independent claim, claims 3 and 5 are not *prima facie* obvious over Plank. Further, Examiner cites Kemmner as disclosing "support structure for a fuel pump with the outer support being an open ring; wherein the open ring has two resilient arms uniformly distributed around the axis." Even assuming for the sake of argument that Kemmner discloses such elements, Kemmner fails to teach or suggest each of the elements of independent claim 1, which claims 3 and 5 depend from. Claims 3 and 5 are thus not *prima facie* obvious over Plank in view of Kemmner.

Claim 16 depends from independent claim 1 and therefore incorporates each of the limitations of that independent claim. Thus, for at least the reasons mentioned above in regard to the independent claim, claim 16 is not *prima facie* obvious over Plank. Further, although Examiner asserts that "it would have been an obvious material choice to make the device out of polyoxymethylene," and suggests that "prior art" supports such an assertion, Examiner has not cited any such prior art reference.

Claim 9 depends from independent claim 1 and therefore incorporates each of the limitations of that independent claim. Thus, for at least the reasons mentioned above in regard to the independent claim, claim 9 is not *prima facie* obvious over Plank. Further, Examiner cites Gunther as disclosing that the "mean radius of each arm relative to a center coinciding with the axis of the pump decreases going towards the free end of the arm." Even assuming for the sake of argument that Gunther discloses such elements, Gunther fails to teach or suggest each of the elements of independent claim 1, which claim 9 depends from. Claim 9 is thus not *prima facie* obvious over Plank in view of Gunther.

Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-7, 9 and 14-23, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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Dated: September 22, 2006

By: \_\_\_\_\_

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### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage on the date below, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450.

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09/22/2006  
Date